



Division of

Real Estate and Professional Licensing

◆ N E W S L E T T E R ◆

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by Superintendent
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Autumn – A Time for Learning

This is the season for *Back to School* – and that certainly holds true here in the Division of Real Estate and Professional Licensing! There have been many opportunities for us to listen and learn over the last several weeks. We so appreciated the conversations with many of you during the Ohio Association of Realtors® convention in Cleveland. Your expressions of thanks for the improvements in our services as well as the suggestions for additional enhancements were well received. I equally enjoyed my evening with the Northern Ohio Chapter of the Appraisal Institute where we discussed what was going on at the state level and the preparations being made for the 2008 criteria update. The case law update, industry trends, and technology advancements were just a few of the major topics

discussed by regulatory officials from across the country during the recent ARELLO conference. I came back loaded with information for the Commissioners, Board members and staff members of every section of the Division. We've enjoyed fantastic training internally this season as well. Ohio Real Estate Appraiser Board Chair, Margaret Hambleton, led the appraiser investigators, legal staff, and others through USPAP requirements for good appraisals, including a case study of a particularly egregious appraisal that resulted in the revocation of the license. With a relatively new investigative staff, this training will enhance our enforcement efforts – a response to the tougher enforcement that many of you have requested! These many opportunities to listen and learn help the Division become much better at our regulatory and consumer protection duties. Never hesitate to contact us – we appreciate your input!

Opportunity to Help with Important Research Project

The Ohio Real Estate Commission, through its Education and Research Committee, is funding a research project to determine the effectiveness of various forms of advertising for those in the real estate business. Researchers at Wright State University are gathering data now for a report to be presented by the end of the year. Please participate in the on-line survey by clicking on the following link: <http://rscobws.wright.edu/ss/wsb.dll/1/media.htm>. The survey should take less than 10 minutes to complete. Again, your input is appreciated!

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Mortgage Broker's License Does Not Equal Real Estate Broker's License

Our Enforcement team has noticed an increase in unlicensed activity cases against mortgage brokers and loan officers. A typical case involves a mortgage broker or loan officer who markets the property, procures a buyer for a seller, or assists in the negotiation of the real estate purchase. Please see R.C. 4735.01 for a list of activities which require licensure. Other common scenarios from enforcement files include:

- Placing a FSBO sign with loan officer contact information in the yard.
- Payment of referral fees to loan officers with respect to a specific property.
- Negotiating the purchase contract on behalf of a buyer.
- Setting up showings for the property.
- Marketing the property.

Pursuant to R.C. 4735.052, the Ohio Real Estate Commission may impose a civil penalty up to \$1000.00 a day for unlicensed activity. Each day a violation occurs or continues is a separate violation. For example, under most circumstances, if a loan officer advertises real estate in a newspaper and the ad runs for one month, a civil penalty of \$30,000 may be issued!

You may ask, "I'm a licensed real estate broker, why are you telling me?" R.C. 4735.18(A)(34) provides that discipline may be imposed on a licensed real estate broker or salesperson for authorizing or permitting a person to act as an agent in the capacity of a broker or salesperson who was not then licensed as a real estate broker or salesperson. Therefore, when working with a mortgage broker or loan officer in the course of a real estate transaction, be very careful you are not working with a person engaging in unlicensed activity.

Out of State Relocation Company Listing Agreements

Agency agreements must comply with R.C. 4735.55 which provides that each written agency agreement must contain an expiration date, appropriate fair housing language, a statement defining blockbusting, and a place for the licensee and the client to sign and date the agreement. If a listing agreement fails to comply, the salesperson and broker may be formally charged or issued a citation.

Frequently, the listing agreements which result in a charge or citation are listing agreements provided to Ohio agents from out of state relocation companies. These agreements may not comply with Ohio license law. Next time you use such an agreement, please review it to ensure the listing agreement is compliant.



Acting Division Counsel Named

Superintendent Davids is pleased to announce that Holly Johnston-Cook has been named the Acting Division Counsel for the Division of Real Estate and Professional Licensing. Holly replaced Bill Leber who moved to the Department of Commerce's Administrative Legal Section.

Holly has worked with the Division for four years and served most recently as the Manager of the Enforcement Section. She holds a B.A. from Ohio University and a J.D. from the Capital University Law School.

R.C. 4735.13(E): Brokers Associating with Another Broker Reminder

Ohio license law does not recognize “principal brokers” or “associate brokers.” If a real estate broker desires to associate with another real estate broker in the capacity of a real estate salesperson, the broker shall apply to the superintendent to deposit the broker’s real estate license and for the issuance of a real estate salesperson’s license. The application shall be made on the broker transfer/reactivation form and shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated and a fee of twenty-five dollars for the real estate salesperson’s license. A broker, who intends to deposit the broker’s license with the superintendent, shall give written notice of this fact to all salespersons associated with the broker when applying to place the brokers’ license on deposit.



Reminder to Appraiser Licensees

Ohio Revised Code 4763.11(I) requires that a licensed or certified appraiser notify the Real Estate Appraiser Board of a conviction from a criminal proceeding for a felony or a crime involving a moral turpitude within 15 days of the conviction. If you have any questions regarding this issue, please contact the Appraiser Enforcement Section at (614) 466-4100.

Auctioning Real Estate Reminder

One must have a real estate broker’s or salesperson’s license to auction real estate. If you are a salesperson you must be affiliated with a broker. In addition, as a salesperson, you may not have your license affiliated with brokerage A and sell real estate by auction or otherwise with brokerage B. In other words, salespersons may not work for more than one brokerage at the same time. Doing so may result in discipline being issued against your license.

Persuading an Appraiser to Reach a Certain Value? - It’s a Felony!

SB 185 – the much proclaimed “predatory lending” bill – imposes significant consequences for those who attempt to persuade an appraiser to reach a certain value when appraising real property. Under Ohio Revised Code Section 4763.12(E), it is a fifth degree felony for anyone to directly or indirectly compensate, instruct, induce, coerce, or intimidate a licensed or certified appraiser, for the purpose of corrupting or improperly influencing the independent judgment of the appraiser with respect to the value of the dwelling offered as security for repayment of a mortgage loan.

Property Management and Licensees

The Division's Enforcement Section is often contacted in reference to property management and who is permitted and what license is required to engage in such an operation. Ohio Revised Code 4735.01(A) provides a "Real estate broker includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, *who for another*, whether pursuant to a power of attorney or otherwise, and *who for a fee, commission, or other valuable consideration*, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration does any of the following: (5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants." This article hopes to clarify misconceptions regarding property management and provide guidance for those who wish to provide these services.

Property management does not require a separate real estate license; however, a salesperson must be affiliated with a brokerage to provide the services. A brokerage may engage in both the facilitation of selling and purchasing real property as well as property management. There are provisions within license law instructing a brokerage on how to maintain the appropriate records when engaging in property management.

- (1) O.A.C. 1301:5-5-11(A) requires a brokerage to maintain a separate trust account for the deposit of security deposits, rents, and money received from the owners or on the owner's behalf for payment of expenses related to the management of property.
- (2) O.A.C. 1301:5-5-11(B)(1) allows a property management trust account to accrue interest; however, it is payable on a pro rata basis to the owners of the properties and must be paid quarterly at a minimum.
- (3) O.A.C. 1301:5-5-11(C) requires that a separate ledger be maintained for each owner of property managed by the brokerage.

All of these documents are vital in providing services as a property management business. In addition, O.R.C. 4735.18(A)(24) requires a licensee to keep complete and accurate records of all transactions for a period of three years from the date of the transaction.

A regular employee of a property owner may engage in property management without a real estate license. As once previously defined in the Fall 1998 Newsletter, the Division defines a regular employee under the following conditions:

- The employee is paid via a W-2 versus a 1099
- The employer pays all taxes
- The employer pays unemployment and worker's compensation insurance
- The employer schedules the hours of work for the employee

The above conditions allow an individual to engage in property management for a property owner without a real estate license. Otherwise, the individual will be in violation of license law and the Division may initiate disciplinary action under O.R.C. 4735.052.

The required documents for property management are the same as to the required documents when facilitating the sale and purchase of real estate. The landlord must receive a Consumer Guide to Agency Relationship prior to the licensee marketing or showing the property (O.R.C. 4735.56(C)). All tenants with a lease of more than eighteen months must also receive a Consumer Guide to Agency Relationship (O.R.C. 4735.56(G)(1)). In addition, the tenant must receive and sign the Agency Disclosure Statement upon preparing the lease if the lease is more than eighteen months in length and a landlord must receive and sign the Agency Disclosure Statement upon the presentation of a lease (O.R.C. 4735.58(A)).

As always, if a licensee has additional questions, the Division may be contacted at (614) 466-4100 or via email at REPLD@com.state.oh.us.

I Passed My Broker Exam, Now What?

The following options are available to you as a new broker

1. Activate license as a sole proprietor

Submit a broker transfer/reactivation application, a letter from a financial institution (bank) stating you have a non-interest bearing special or trust account, and return your salesperson license. There is no fee if the application is received within 30 days of passing the exam.

2. Activate license as a sole proprietor with a DBA

Submit a name reservation application. Once you receive the approval from the Division, you may proceed with the following: register the DBA name with the Secretary of State, submit the certificate from the Secretary of State's office with the broker transfer/reactivation application (no fee if submitted within 30 days of passing the exam), a letter from a financial institution (bank) stating you have a non-interest bearing special or trust account, and return your salesperson license.

3. Activate license with an existing company

Submit a broker transfer/reactivation application (no fee if submitted within 30 days of passing the exam), return your salesperson license and the company's license with addendum.

4. Activate license with a company that you started

Submit a name reservation application. Once you receive the approval from the Division, register the name with the Secretary of State, submit a copy of the letter of organization and certificate, company application (corporation, limited liability company, partnership, or association application which applies to your type of company), a letter from a financial institution (bank) stating you have a non-interest bearing special or trust account, a broker transfer/reactivation application, (no fee if submitted within 30 days of passing the exam), and return your salesperson license.

5. Place license in inactive status

Write a letter to the Division stating that you would like for your broker's license to be placed in an Inactive status.

OAR CONVENTION

The Ohio Association of REALTORS® 96th Annual Convention and Expo was held at the Cleveland Convention Center from Sept. 17 – 19. The Division once again sponsored a booth at the Expo and staff member Jeff Mackey and Superintendent Kelly Davids were on hand to distribute a new guide to the Division's online services and answer questions and receive comments and suggestions. Thank you to everyone who stopped by with a question or comment.

Guide to the
Ohio Department of Commerce
Division of Real Estate & Professional Licensing

Online Services



Presented by

Doug White, Director
Ohio Department of Commerce

Kelly Davids, Superintendent
Division of Real Estate & Professional Licensing

www.com.state.oh.us/real

May I “Transfer” an Appraisal Report to a Different Client?

Scenario: The appraiser performs an appraisal assignment for Client A. After the assignment has been completed, the appraiser is contacted by Client B. Client B asks the appraiser to “transfer”, or “re-address” Client A’s appraisal to Client B. May the appraiser “re-address” or “transfer” a report by changing the client name or adding an intended user to the report originally completed for Client A?

Appraisers are often faced with this situation. In 2004, the Appraisal Standards Board (ASB) of the Appraisal Foundation began addressing this subject in Advisory Opinions, which offer clear guidance on the matter. An excerpt from Advisory Opinion 26 of USPAP, effective July 1, 2006, provides, “[o]nce a report has been prepared for a named client(s) and any other identified intended users and for an identified use, the appraiser cannot ‘re-address’ or ‘transfer’ the report to another party.”

The appraiser has no ownership of the appraisal report once they submit that appraisal to their client. The client controls the document, not the appraiser. USPAP also addresses the subject of appraising the same property for a new client in Advisory Opinion 27. It is necessary that the appraiser use these available tools to ensure compliance with the USPAP Standards Ethics Rule Confidentiality section, which provides in part that, “[a]n appraiser must protect the confidential nature of the appraiser-client relationship.” For further guidance on this matter, see USPAP Advisory Opinions 25, 26 & 27, and the USPAP Standards Ethics Rule Confidentiality section.

Is Your Paperwork Complete?

All forms submitted to the Division must be complete. Please double check the forms to make certain that all questions have been answered, necessary signatures have been applied, and any required documentation is attached. The Division will give an opportunity for correction and return all forms not completed in their entirety. We will retain the payment and the applicant will have thirty (30) days to return the corrected paperwork or **some or all of the fee will be forfeited** to the State.

Common reasons paperwork is returned:

- ✓ **The prospective broker information is left blank on the transfer/ reactivation application – if the licensee is transferring to a new brokerage or reactivating their license to an “active” status, then this information must be completed and the broker’s signature must be obtained;**
- ✓ **Application is not signed;**
- ✓ **Incomplete address;**
- ✓ **Incorrect fee amount or no fee is submitted**



Taking a few moments to review your application before you send it will save you time and postage.

For the most current Division forms please download them from our website at:

www.com.state.oh.us/real/realform.htm.



Answers to Your Frequently Asked Questions

Q. If a property is in contract, but it has not yet closed, is it okay to describe the property as “sold?”

A. Yes, generally, it is okay. The word “sold” does not necessarily refer to a consummated sale, where title has transferred; “sold” sometimes refers only to a binding agreement between a buyer and seller. However, one should be mindful that a multiple listing service or other group may require that the word “sold,” in the context of their publication, be a property that has already closed.

Q. Is it permissible for a real estate company or individuals so engaged to act as an agent for a title insurance company?

A. According to R.C. 3953.21, the answer is “no.” It provides in section B, “no bank, trust company, or other lending institution, mortgage service, brokerage, mortgage guaranty company, escrow company, real estate company or any subsidiaries thereof or any individuals so engaged shall be permitted to act as an agent for a title insurance company.”

Q. Must a broker’s phone number or a brokerage’s phone number appear in the broker’s printed advertising?

A. No, there is no specific requirement that they appear in the broker’s printed advertising.

Waiver of Duties Statement

House Bill 150, the “minimum services legislation,” went into effect October 9, 2006. The new legislation, which may be found at http://www.legislature.state.oh.us/BillText126/126_HB_150_EN_N.pdf, provides that fiduciary duties in R.C. 4735.62 may not be waived. However, duties contained in R.C. 4735.63 and R.C. 4735.65 may be waived if the client agrees and signs a Waiver of Duties Statement. The Ohio Real Estate Commission promulgated Ohio Administrative Code 1301:5-5-30 which contains the Waiver of Duties Statement. A copy of the form can be found on page 8.

For additional information regarding the specific duties that may be waived and other H.B. 150 changes, please see the Division’s Summer newsletter at <http://www.com.state.oh.us/real/documents/2006Summercorrected.pdf>.

Real Estate Disciplinary Actions

SUSPENSIONS, FINES, EDUCATION

DAVID S. RUSSELL, salesperson, Canton, Ohio, had his license suspended for a period of 120 days, which commenced on June 26, 2006, for violating 2 counts of Ohio Revised Code (ORC) 4735.18(A), one as it incorporates ORC 4735.13(C). Mr. Russell was convicted of the felony offense of possession of drugs, a felony of the 4th degree and placed on Community Control. The Commission found that in addition to having the conviction, Mr. Russell failed to notify the Division of the felony conviction within the time required by statute.

JERRY McKINNEY, broker, Youngstown, Ohio, as the result of an investigation of a formal complaint, was fined \$500.00 and was required to complete and to submit proof of completion of a three hour core law course for violating ORC 4735.18(A)(5). The Commission found that Mr. McKinney failed to remit sales proceeds that had been deposited into his trust account to the sellers within a reasonable time. In addition, he was fined \$500.00 and was required to complete and to submit proof of completion of a three hour ethics course for violating ORC 4735.18(A)(6) as that section incorporates the Real Estate Canons of Ethics, Section 1, Article 1, when he issued a check for the proceeds and that check was returned for insufficient funds.

LOREN J. MARGOLIS, salesperson, Moreland Hills, Ohio, was given a public reprimand for violating ORC 4735.18(A). Mr. Margolis was convicted of 2 counts of "Supplier Allocation and Bid Rigging", in violation of Title 15, Section 1 of the United States Code.

KENNETH J. MILLER, salesperson, Twinsburg, Ohio, as the result of an investigation of a formal complaint, had his license suspended for five days and was fined \$250.00 for violating ORC 4735.18(A)(6), when he drafted a sales contract and used the letterhead of a company of which he was not licensed with at the time. In addition, he was fined \$300.00 and was required to complete and to submit proof of completion of three hours of fair housing for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.55, when he used incorrect fair housing language in the purchase contract. Mr. Miller was suspended five days and was fined \$250.00 for violating ORC 4735.18(A)(10), when he demanded a commission directly from the seller. Mr. Miller was suspended 5 days, fined \$250.00 and was required to complete and to submit proof of completion of three hours of ethics for violating ORC 4735.18(A)(6) as that section incorporates ORC 4735.21, when he personally collected a referral fee for his services when he was not licensed as a real estate broker. Finally, Mr. Miller was fined \$100.00 and was required to complete and to submit proof of completion of the 10 hour sales post-licensure course for violating ORC 4735.18(A)(6) as that section incorporates ORC 4735.58(B), when he failed to provide the buyer with the required agency disclosure statement. The suspensions were consecutive, for a total of 15 days, and commenced on June 26, 2006.

SUSAN M. PFAFFL, salesperson, Mason, Ohio, as the result of an investigation of a formal complaint, was fined \$600.00 for violating ORC 4735.62(A), when she failed to provide to her brokerage, within a reasonable time, checks written to the brokerage; she failed to exercise reasonable skill and care in representing the clients and carry out the responsibilities of the agency relationships. Ms. Pfaffl, was also required to complete and to submit proof of completion of the 10 hour sales post-licensure course, for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.56(C), when she failed to provide the seller with the Consumer Guide to Agency Relationships, as provided in Ohio Administrative Code ("OAC") 1301:5-6-05, prior to marketing a property.

VALENTINA AVKSHTOL, salesperson, Seven Hills, Ohio, as the result of an investigation of a formal complaint, was given a public reprimand for violating ORC 4735.18(A)(6), when she left her clients, potential buyers, in a property alone and unsupervised.

GEORGE RAFIDI, salesperson, Poland, Ohio, as the result of an investigation of a formal complaint, had his license suspended for 15 days and was fined \$200.00 for violating ORC 4735.18(A)(5), when he failed to deposit earnest money into his brokerage's trust account within a reasonable time. In addition, he was suspended 30 days, fined \$300.00 and was required to complete and to submit proof of completion of the 10 hour sales post-licensure course for violating ORC 4735.18(A)(6), for depositing an earnest money check into his personal checking account. Finally, he was fined \$200.00 for violating ORC 4735.18(A)(29), for having an unsatisfied judgment against him regarding the earnest money check. The suspensions were consecutive, for a total of 45 days, and commenced on July 24, 2006.

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Real Estate Disciplinary Actions continued

DENNIS MICHAEL PAUL, salesperson, Mentor, Ohio, as the result of an investigation of a formal complaint, was fined \$300.00 and was required to complete and to submit proof of completion of a three hour core law course for violating ORC 4735.18(A)(10). Mr. Paul demanded a commission for which he was not entitled. He was fined \$200.00 for violating ORC 4735.18(A)(6) as that section incorporates the Canons of Ethics for the Real Estate Industry, Section 1, Article 1, when he took possession of a commission check for a property that was written out to and belonged to another real estate brokerage. His license was suspended for a period of 15 days for violating ORC 4735.18(A)(6), when he failed to report on his 2005 renewal form that he was under investigation. Finally, he was suspended for 15 days for violating ORC 4735.18(A)(6), when he failed to report, on a Division transfer/reactivation application, that he had his real estate license suspended. The suspensions were consecutive, for a total of 30 days, and commenced on July 24, 2006.

LEONARD A. PARTIN, broker, Port Clinton, Ohio, as the result of an investigation of a formal complaint, was given a public reprimand for violating ORC 4735.18(A)(6) as that section incorporates the Canons of Ethics for the Real Estate Industry, Section 1, Article 1, when he included testimonials from 2 licensees on his website without their permission.

GERRY FEUDO, salesperson, Seven Hills, Ohio, as the result of an investigation of a formal complaint, was given a public reprimand for violating ORC 4735.18(A)(6), negligence and ORC 4735.18(A)(6) as that section incorporates the Canons of Ethics for the Real Estate Industry, Section II, Article 7. The Commission found that Ms. Feudo failed to adequately disclose to potential buyers all known material facts concerning a property of which she was representing the seller - to avoid misrepresentation or concealment of material facts.

KIMBERLY A. ESPOSITO, salesperson, Northfield, Ohio, as the result of an investigation of a formal complaint, was fined \$1,000.00 and was required to complete and to submit proof of completion of three hours of additional continuing education relating to ethics and three hours relating to agency for violating ORC 4735.18(A)(20). The Commission found that Ms. Esposito offered property for sale without the knowledge and consent of one of the owners or the consent of the owner's authorized agent. Ms. Esposito was fined \$200.00 for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.55(A)(2), when she failed to use correct fair housing language in an exclusive right to sell agreement. Finally, Ms. Esposito was fined \$200.00 for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.58(A), when she failed to present the seller with an agency disclosure statement prior to marketing or showing the property.

DANIEL VARGAS, broker, Cincinnati, Ohio, had his license suspended for a period of two years, which commenced on July 6, 2006, for violating ORC 4735.18(A)(6), as that section incorporates ORC 4735.02, unlicensed activity, when he held himself out as a broker with an active license, while his broker's license was suspended. He was also found by the Commission to have violated ORC 4735.18(A)(6), as that section incorporates OAC 1301:5-6-06(C), when he modified a state mandated agency disclosure form by altering the font size and adding language.

TRIUMPH REALTY, INC., corporation, Powell, Ohio, as the result of an investigation of a formal complaint, was fined \$500.00 and given a public reprimand for violating ORC 4735.18(A)(29), when the company had an unsatisfied final judgment against it arising out of conduct as a licensed real estate brokerage.

GLENDAL L. MULLET, salesperson, Columbus, Ohio, as the result of an investigation of a formal complaint, was fined \$500.00 and was required to complete and to submit proof of completion of the ten hour sales post-licensure course for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.62(A), when she failed to provide to her clients a report regarding a private sewage system. Ms. Mullet was fined \$250.00 for violating ORC 4735.18(A)(6) as that section incorporates ORC 4735.58(B)(1)(c), when she failed to provide an agency disclosure form to her client prior to showing a property. Finally, Ms. Mullet was fined \$250.00 for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.56(A)-(E), when she failed to present her client, the buyer, with a written disclosure prior to performing the agency duty of showing a property.

GARY F. GOLEM, broker, Garfield Heights, Ohio, as the result of an investigation of a formal complaint, was fined \$200.00 for violating ORC 4735.18(A)(6) as that section incorporates ORC 4735.58(B)(1)(e), when he failed to present an agency disclosure form to the buyer prior to submitting an offer. In addition, Mr. Golem was fined \$200.00 for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.55(A)(2), when he failed to use correct fair housing language in a listing agreement.

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Real Estate Disciplinary Actions continued

THOMAS S. JACKSON, broker, Canton, Ohio, as the result of an investigation of a formal complaint, was given a public reprimand for violating ORC 4735.18(B), when he had knowledge that an affiliated salesperson negotiated the sale of property directly with an owner and purchaser, knowing that such owner had a written outstanding contract granting exclusive agency to another real estate broker.

STEVEN C. LAZARIDES, salesperson, Canton, Ohio, as the result of an investigation of a formal complaint, was given a public reprimand for violating ORC 4735.18(A)(19), when he negotiated the sale of property directly with an owner and purchaser, knowing that such owner had a written outstanding contract granting exclusive agency to another real estate broker.

ANDREW J. VonSTEIN, broker, Canton, Ohio, as the result of an investigation of a formal complaint, was given a public reprimand for violating ORC 4735.18(A)(14), when he falsely represented membership in a real estate professional association of which he was not a member.

DONALD H. DIENER, salesperson, Waverly, Ohio, as the result of an investigation of a formal complaint, was fined \$200.00 and was required to complete and to submit proof of completion of three hours of additional education relating to agency for violating ORC 4735.18(A)(6), as that section incorporates OAC 1301:5-6-07. Mr. Diener was found by the Commission to have incorrectly completed and presented the agency disclosure form to his client. Both sections I and II were completed, presenting conflicting information to the client.

MICHAEL T. HARRIS, broker, Waverly, Ohio, as the result of an investigation of a formal complaint, was fined \$500.00 for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.72(A)(2), when he, as sole broker, was a dual agent and failed to refrain from advocating or negotiating on behalf of the seller. In addition, Mr. Harris was fined \$200.00 and was required to complete and to submit proof of completion of three hours of additional education relating to agency for violating ORC 4735.18(A)(6), as that section incorporates OAC 1301:5-6-07. Mr. Harris was found by the Commission to have incorrectly completed and presented the agency disclosure form to his client. Both sections I and II were completed, presenting conflicting information to the client.

JEFF J. BOYER, salesperson, Rocky River, Ohio, as the result of an investigation of a formal complaint, was fined \$200.00 for violating ORC 4735.18(A)(6), as that section incorporates OAC 1301:5-6-07, when he presented an outdated agency disclosure form to his client.

FRANCES L. LINK, salesperson, Columbus, Ohio, as the result of an investigation of a formal complaint, was fined \$500.00 and was required to complete and to submit proof of completion of three hours of additional continuing education relating to agency for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.62(A). The Commission found that Ms. Link failed to obtain her client's written consent to having another salesperson represent her, prior to the other agent being listed in the MLS as the listing agent.

CHAD E. FIELDS, salesperson, Dublin, Ohio, as the result of an investigation of a formal complaint, was fined \$250.00 for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.57(A)(4), when he failed to properly complete an agency disclosure statement when representing himself, only section III should have been completed. He was fined \$250.00 for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.57(A)(4), when he failed to properly complete an agency disclosure statement when representing the sellers in the sale of a property, only section II should have been completed. He was fined \$300.00 and was required to complete and to submit proof of completion of three hours of additional continuing education relating to agency for violating ORC 4735.18(A)(6) as that section incorporates OAC Rule 1301:5-5-06(A)(1), when he failed to document presentation and refusal to sign the agency disclosure statement. Finally, he was fined \$500.00 and was required to complete and to submit proof of completion of three hours of additional continuing education relating to ethics, for violating ORC 4735.18(A)(21) when he published advertising which was misleading or inaccurate by misrepresenting the terms, policies and services of a guaranteed home sale program.

C. P. R. REALTY CO., INC., corporation, Columbus, Ohio, was fined \$1,000.00 and given a public reprimand for violating ORC 4735.18(A)(9) as that section incorporates ORC 4735.67(A), when the company failed to disclose a known material fact concerning the property that could not be discovered by diligent inspection.

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Real Estate Disciplinary Actions continued

UNLICENSED ACTIVITY

BEN LeQUANG, Torrance, California, was found by the Commission to have violated ORC 4735.02, unlicensed activity, and was assessed a civil penalty in the amount of \$56,000.00. The Commission found that Mr. LeQuang engaged in the business of charging an advance fee, or contracting for collection of a fee, in connection with any contract for the referral of information concerning real estate to brokers, while not licensed under Chapter 4735.

MUNNA AGARWAL, Euclid, Ohio, was found by the Commission to have violated ORC 4735.02, unlicensed activity, and was assessed a civil penalty in the amount of \$1,000.00. The Commission found that Mr. Agarwal agreed to negotiate and negotiated a potential purchase of property, agreed to list and listed, agreed to offer and offered a property for sale, advertised and held himself out as engaged in the business of selling real estate, directed and assisted in the procuring of prospects and in the negotiation of a transaction which was calculated to result in the sale of a property and intended or expected to receive compensation or other valuable consideration for the above conduct, while not licensed under Chapter 4735.

ELYHUE E. DUFF, Akron, Ohio, was found by the Commission to have violated ORC 4735.02, unlicensed activity, and was assessed a civil penalty in the amount of \$1,000.00. The Commission found that Mr. Duff assisted in the procuring of a prospect and negotiation of a transaction, which was calculated to result in the sale of a property, wrote a sales contract for the parties, and intended or expected to receive compensation or other valuable consideration for the above conduct, while not licensed under Chapter 4735.

PAUL M. SNOOK, Euclid, Ohio, was found by the Commission to have violated ORC 4735.02 as that section incorporates ORC 4735.01(A)(05), unlicensed activity, and was assessed a civil penalty in the amount of \$27,600.00. The Commission found that Mr. Snook entered into an agreement to provide management services for a property and subsequently provided these services, while not licensed under Chapter 4735.

Appraiser Disciplinary Actions

REVOCATIONS

DANNY E. SAGSTETTER, a State licensed residential real estate appraiser from Delaware, Ohio was found in violation of the following with respect to an appraisal report: **1.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-4 and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he failed to state the basis for assigning a value of \$5,000 to the site of the subject property; **2.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(a), USPAP 2003 Standards Rule 1-1(b), USPAP 2003 Standards Rule 1-1(c), USPAP 2003 Standards Rule 1-4 (b) and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he did the following: he made inconsistent adjustments in the Sales Comparison Approach regarding differences in the garage sizes between the subject property and the comparable sales; he did not make appropriate adjustments for age differences between the subject property and the comparable sales; and he did not make appropriate adjustments for the dimensions of the lots of the subject property and the comparable sale properties; **3.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-2(c)(iv) and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he incorrectly reported “unknown” in response to the request for information regarding “Description and \$ amount of loan charges/concessions to be paid by seller” on page 1 of the appraisal report although the work file for the appraisal report includes a copy of an agreement whereby the seller agrees to pay the purchaser “6% of buyer’s closing costs.”; **4.** He violated ORC 4763.11(G)(5) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 2-2 by operation of OAC 1301:11-5-01 when he failed to disclose whether the report was a Self-Contained Appraisal Report, a Summary Appraisal Report or a Restricted Use Appraisal Report; **5.** He violated ORC 4763.11(G)(5), 4763.11(G)(6), 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(a) by operation of OAC 1301:11-5-01 when he failed to correctly employ recognized methods and techniques that are necessary to produce a credible appraisal report; **6.** He violated ORC 4763.11(G)(5), 4763.11(G)(6), 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(b) by operation of OAC 1301:11-5-01 when he committed substantial errors of omission and commission that significantly affected the appraisal report; **7.** He violated ORC 4763.11(G)(5), 4763.11(G)(6), 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(c) by operation of OAC 1301:11-5-01 when he rendered appraisal services in a negligent and careless manner in the completion of the appraisal report.

In a second appraisal report, Mr. Sagstetter was found in violation of the following with respect to an appraisal report: **1.** He violated ORC 4763.11(G)(5), 4763.11(G)(6), 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-4 and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he failed to state the basis for assigning a value of \$5,000 to the site of the subject property; **2.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(a), USPAP 2003 Standards Rule 1-1(b), USPAP 2003 Standards Rule 1-1(c), USPAP 2003 Standards Rule 1-4 (b) and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he also made inconsistent adjustments in the Sales Comparison Approach for the differences between the Subject property and the comparable sales regarding size of the garages; inappropriate adjustments for age differences between the subject property and the comparable sale properties; and he did not make appropriate adjustments for the dimensions of the lots of the subject property and the comparable sale properties; **3.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-2(c)(iv) and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he incorrectly reported in the appraisal report “unknown” in response to the request for information regarding “Description and \$ amount of loan charges/concessions to be paid by seller” on page 1 of the appraisal report although the work file for the appraisal includes a copy of an agreement whereby the seller agrees to pay the purchaser “6% of buyer’s closing costs.”; **4.** He violated ORC 4763.11(G)(5) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 2-2 by operation of OAC 1301:11-5-01 when he failed to disclose in the appraisal report whether the report was a Self-Contained Appraisal Report, a Summary Appraisal Report or a Restricted Use Appraisal Report; **5.** He violated ORC 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(a) by operation of OAC 1301:11-5-01 when he failed to correctly employ recognized methods and techniques that are necessary to produce a credible appraisal report.

In a third appraisal report, Mr. Sagstetter was found in violation of the following with respect to an appraisal report: **1.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards

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Appraiser Disciplinary Actions continued

Rule 1-4 and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he failed to state the basis for assigning a value of \$5,000 to the site of the subject property; **2.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(a), USPAP 2003 Standards Rule 1-1(b), USPAP 2003 Standards Rule 1-1(c), USPAP 2003 Standards Rule 1-4 (b) and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he made inconsistent adjustments in the Sales Comparison Approach for the differences in garage sizes between the subject property and the comparable sales; he did not make appropriate adjustments for age differences between the subject property and the comparable sales; and he did not make appropriate adjustments for the dimensions of the lots of the subject property and the comparable sales; **3.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-2(c)(iv) and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he incorrectly reported in the appraisal report “unknown” in response to the request for information regarding “Description and \$ amount of loan charges/concessions to be paid by seller” on page 1 of the appraisal report although the work file for the appraisal includes a copy of an agreement whereby the seller agrees to pay the purchaser “6% of buyer’s closing costs.”; **4.** He violated ORC 4763.11(G)(5) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 2-2 by operation of OAC 1301:11-5-01 when he failed to disclose in the appraisal report whether the report was a Self-Contained Appraisal Report, a Summary Appraisal Report or a Restricted Use Appraisal Report; **5.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-5(a) by operation of OAC 1301:11-5-01 when he failed to disclose and analyze in the appraisal a prior sale of the subject property that occurred within 7 months of the date of the appraisal; **6.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(a) by operation of OAC 1301:11-5-01 when he failed to correctly employ recognized methods and techniques that are necessary to produce a credible appraisal report; **7.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(b) by operation of OAC 1301:11-5-01 when he committed substantial errors of omission and commission that significantly affected the appraisal; **8.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(c) by operation of OAC 1301:11-5-01 when he rendered appraisal services in a negligent and careless manner.

In a fourth appraisal report, Mr. Sagstetter was found in violation of the following with respect to an appraisal report: **1.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-4 and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he failed to state his basis for assigning a value of \$5,000 to the site of the subject property; **2.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(a), USPAP 2003 Standards Rule 1-1(b), USPAP 2003 Standards Rule 1-1(c), USPAP 2003 Standards Rule 1-4 (b) and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he made inconsistent adjustments in the Sales Comparison Approach for the differences in garage sizes between the subject property and the comparable sales; he did not make appropriate adjustments for age differences between the subject property and the comparable sales; and he did not make appropriate adjustments for the dimensions of the lots of the subject property and the comparable sales; **3.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-2(c)(iv) and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he incorrectly reported in the appraisal report “unknown” in response to the request for information regarding “Description and \$ amount of loan charges/concessions to be paid by seller” on page 1 of the appraisal report although the appraiser work file for the appraisal includes a copy of an agreement whereby the seller agrees to pay the purchaser “6% of buyer’s closing costs.”; **4.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-4 and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he failed to state in the appraisal report the basis for the replacement cost per square foot that he assigned to the subject property in the Cost Approach; **5.** He violated ORC 4763.11(G)(5) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 2-2 by operation of OAC 1301:11-5-01 when he failed to report in the appraisal report whether the report was a Self-Contained Appraisal Report, a Summary Appraisal Report or a Restricted Use Appraisal Report; **6.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(a) when he failed to correctly employ recognized methods and techniques that are necessary to produce a credible appraisal report; **7.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(b) when he committed substantial errors of omission and

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Appraiser Disciplinary Actions continued

commission that significantly affected the appraisal; **8.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(c) when he rendered appraisal services in a negligent and careless manner.

In a fifth appraisal report, Mr. Sagstetter was found in violation of the following with respect to an appraisal report: **1.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-4 and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he failed to state his basis for assigning a value of \$12,500 to the site of the subject property; **2.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(a) when he made inconsistent adjustments in the Sales Comparison Approach for the differences in garage sizes between the subject property and the comparable sales; and he did not make appropriate adjustments for age differences between the subject property and the comparable sales; **3.** He violated ORC 4763.11(G)(5) and 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 2-2 by operation of OAC 1301:11-5-01 when he failed to disclose in the appraisal report whether the report was a Self-Contained Appraisal Report, a Summary Appraisal Report or a Restricted Use Appraisal Report; **4.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate the USPAP 2003 Standards Rule 1-1(a) by operation of OAC 1301:11-5-01 when he failed to correctly employ recognized methods and techniques that are necessary to produce a credible appraisal report; **5.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate the USPAP 2003 Standards Rules 1-1(b) by operation of OAC 1301:11-5-01 when he committed substantial errors of omission and commission that significantly affected the appraisal; **6.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate the USPAP 2003 Standards Rule 1-1(c) by operation of OAC 1301:11-5-01 when he rendered appraisal services in a negligent and careless manner.

For all of these violations, the Appraiser Board **revoked** Danny E. Sagstetter's license to appraise residential real estate in the State of Ohio.

RICHARD VALENTINE, a State licensed residential real estate appraiser from Gallipolis, Ohio was found in violation of: ORC 4763.11(G)(5) and 4763.11(G)(7) as those sections incorporate USPAP 2002 Standards Rule 1-5(b) by operation of OAC 1301:11-5-01 when he failed to report in the appraisal report a sale of the subject property that occurred less than one year prior to the date of appraisal report. For this violation, Richard Valentine was ordered by the Appraiser Board to **permanently surrender** his real estate appraiser's license and never apply for reinstatement in the State of Ohio.

SUSPENSIONS, FINES, ADDITIONAL EDUCATION AND REPRIMANDS

CLEMON DEMUS, a State certified residential real estate appraiser from Cincinnati, Ohio was found in violation of the following with respect to a real estate appraisal report: **1.** He was in violation of ORC 4763.11(G)(5) as it incorporates 2002 USPAP Standards Rule 1-1(b) by using comparable properties that were not located in the same city as the subject property; **2.** He was in violation of ORC 4763.11(G)(5) as it incorporates 2002 USPAP Standards Rule 2-1(b) by failing to report the municipalities where the comparable properties were located; **3.** He was in violation of ORC 4763.11(G)(5) as it incorporates 2002 USPAP Standards Rule 1-1(b) by failing to include location adjustments for the comparable properties or failing to explain why no location adjustment was necessary; **4.** He was in violation of ORC 4763.11(G)(6) by failing to report the source of the site value for the subject property; **5.** He was in violation of ORC 4763.11(G)(6) by failing to report an effective age for the subject property; **6.** He was in violation of ORC 4763.11(G)(5) as it incorporates 2002 USPAP Standards Rule 2-2 by failing to prominently state the reporting option used in the subject's appraisal report.

For these violations the Appraiser Board ordered the following: For 1 through 3: Clemon L. Demus was **suspended** from the practice of appraising real estate in the State of Ohio for six (6) months effective June 19, 2006. For 4 through 6: Mr. Demus was ordered to complete 45 hours of additional education consisting of the following: a 15 hour USPAP pre-licensure course including the passage of the course examination and a 30 hour Approach to Value course including the passage of the course examination.

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Appraiser Disciplinary Actions continued

MICHAEL GRAY, a State licensed residential real estate appraiser from Galloway, Ohio was found in violation of the following with respect to a real estate appraisal report: He violated ORC 4763.11(G)(5) as that section incorporates USPAP Standards Rule 2-1(a) by operation of 1301:11-5-01 when he failed to explain why the report used comparable sales outside the appraisal report's indicated market boundaries. For this violation, Michael Gray was ordered by the Appraiser Board to pay a civil penalty of \$100.00.

FERDIE M. MURPHY JR., a State certified residential real estate appraiser from Troy, Ohio was found in violation of the following with respect to an appraisal report: **1.** He violated ORC 4763.11(G)(5) as it incorporates USPAP Standards Rule 1-1(a) by operation of OAC 1301:11-5-01 when he described the subject property as a ranch style home on a concrete slab and explicitly stated that it was not a "Manufactured House" when in fact the home located on the subject property was a mobile home; **2.** He violated ORC 4763.11(G)(5) as it incorporates USPAP Standards Rule 1-1(a) by operation of OAC 1301:11-5-01 when he compared the subject property to ranch style homes which were not mobile homes, and he failed to include in his appraisal any adjustments or explanation for differences between the subject property and comparables regarding design, quality of construction or functional utility.

In a second real estate appraisal report, Mr. Murphy, Jr., violated ORC 4763.11(G)(5) as it incorporates USPAP Standards Rules 1-1(a) and 1-1(b) by operation of OAC 1301:11-5-01 when he failed to specify the subject's neighborhood boundaries in the appraisal report; he violated ORC 4763.11(G)(5) as that section incorporates the USPAP Standards Rules 1-4(a), 1-6(a) and 2-2(b)(ix) by operation OAC 1301:11-5-01 when he failed to adequately explain the use of dissimilar comparable sales; and he violated ORC 4763.11(G)(5) as it incorporates USPAP Standards Rules 1-4(a), 1-6(a), and 2-2(b)(ix) by operation of OAC 1301:11-5-01 when he failed to analyze and explain the disparity between the current sale and a recent prior sale for comparable #3.

In a third real estate appraisal report, Mr. Murphy, Jr. violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 1999 Standards Rule 2-2(a)(ix) by operation of OAC 1301:11-5-01 when he failed to state the basis for his conclusion that the effective age for the subject property was 20 years when the actual age of the subject property was 46 years as of the date of the appraisal.

For all of these violations, Ferdie Murphy Jr., was ordered by the Appraiser Board to be **suspended** from the practice of appraising real estate in the State of Ohio for 10 days effective July 15, 2006 or until Mr. Murphy Jr. completes the additional education as set forth below, whichever is longer. He is to complete ninety (90) hours of additional education in the following: a 15 hour USPAP pre-licensure course including the passage of the course examination; a 30 hour basic appraisal procedures pre-licensure course including the passage of the course examination; a 30 hour basic appraisal principles pre-licensure course including the passage of the course examination; a 8 hour appraisal business and ethics course; and a 7 hour course on appraising manufactured homes. The courses required by this order may not be used to satisfy continuing education requirements except for the 15 hour USPAP pre-licensure course may be credited towards his 2006 renewal only if Mr. Murphy passes the course examination prior to his renewal date.

JACK D. LEWIS, a State licensed residential real estate appraiser from Fairborn, Ohio was found in violation of the following with respect to a real estate appraisal report: **1.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate the USPAP 2000 Standards Rule 1-1(a), USPAP 2000 Standards Rule 1-4(b) and USPAP 2000 Standards Rule 2-1(c) by operation of OAC 1301:11-5-01 when he reported, without stating the basis for the representation, an effective age for the Subject property of 35 years despite the fact that the actual age of the Subject property at the time of the appraisal was 80 years; **2.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate USPAP 2000 Standards 1-4 and USPAP 2000 Standards 2-1(b) by operation of OAC 1301:11-5-01 when he failed to state any value for the site of the Subject property in the Cost Approach and work file; **3.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate the USPAP 2000 Standards Rule 1-1(c) by operation of OAC 1301:11-5-01 when he failed to report a pending sale for the Subject property for \$52,700, and he reported on an addendum to the appraisal that the Subject property was "currently not under contract" as of the effective date of the appraisal although his documentation of the appraisal reports the names of the buyer and seller in the pending sales contract for \$52,700; **4.** He violated ORC 4763.11(G)(5) and 4763.11(G)(7) as those sections incorporate USPAP 2000 Standards Rule 1-5(b) by operation of

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OAC 1301:11-5-01 when he failed to report a sale of the Subject property that occurred less than one year prior to the date of the appraisal report; **5.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate the USPAP 2000 Standards Rules 1-1(c) by operation of OAC 1301:11-5-01 when he rendered appraisal services in a negligent and careless manner.

For violations 1 through 4, Jack D. Lewis was ordered by the Appraiser Board to complete a total of 36 hours additional education that will not be credited to the appraiser's continuing education requirements. Those hours shall include the following: a 14 hour course in Cost Approach including successful completion of the course examination; a 7 hour course in Sales Approach including successful completion of the course examination; and a 15 hour USPAP course including successful completion of the course examination. The courses shall be completed within six (6) months of the date of this Order. However, the Superintendent may grant an extension upon good cause shown. For the violations in 5, Jack D. Lewis is **suspended** from the practice of appraising real estate in the State of Ohio for seven (7) days effective September 11, 2006.

DOUGLAS S. KAYLE, a State licensed residential real estate appraiser, from Lorain, Ohio was found in violation of the following with respect to a real estate appraisal report: **1.** He violated ORC 4763.11(G)(5) as that section incorporates the USPAP Standards Rule 1-1(a) by operation of OAC 1301:11-5-01 when he utilized comparables not close in proximity to the subject property; he used comparables substantially newer than the subject property; and he made an inappropriate conditional adjustment to comparable sale #2; **2.** He violated ORC 4763.11(G)(5), ORC 4763.11(G)(9) as it incorporates USPAP Standards Rule 1-2(f) and the Conduct and Management Section of the Ethics Rule for USPAP when he prepared a second appraisal report for the subject property under an agreement with the mortgage company to use newly built comparables at a further distance from the subject property than were used in the first appraisal.

For these violations, Douglas S. Kayle was ordered by the Appraiser Board to pay a civil penalty of \$750.00 and must complete a 15 hour USPAP course that will not be credited to the appraiser's continuing education requirements, and includes successful completion of the course examination. The course shall be completed within six (6) months of the date of the Order. However, the Superintendent may grant an extension upon good cause shown. Further, Douglas S. Kayle is to receive a written reprimand.

CHARLOTTE A. BERRYMAN, a State licensed residential real estate appraiser from Westerville, Ohio was found in violation of the following with respect to a real estate appraisal report: **1.** She violated ORC 4763.11(G)(5), 4763.11(G)(6), and/or 4763.11(G)(7) as those sections incorporate the Competency Rule in USPAP 2000 by operation of OAC 1301:11-5-01 when prior to accepting the assignment or entering into the agreement to perform the appraisal of the Subject property, she did not have the knowledge and experience to complete the assignment competently; she did not disclose the lack of knowledge and/or experience to the client before accepting the assignment; she did not take all steps necessary or appropriate to complete the assignment competently, and she did not describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report; **2.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate USPAP 2000 Standards Rule 1-4 and USPAP 2000 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she failed to state the basis in the appraisal report or workfile a \$36,000 value to the site of the subject property in the Cost Approach; **3.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate USPAP 2000 Standards Rule 1-1(b), USPAP 2000 Standards Rule 1-1(c), and USPAP 2000 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she used as comparable sales, properties which were not similar to the Subject property, and did not state her reasons for using as comparable sales, properties that were not similar to the Subject property; **4.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate USPAP 2000 Standards Rule 1-3 and USPAP 2000 Standards Rule 1-4 by operation of OAC 1301:11-5-01 when she failed to adequately or accurately support or provide reasonable adjustments to the cost for improvements to the subject property and the comparables properties; **5.** She violated ORC 4763.11 (G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate the USPAP 2000 Standards Rules 1-1(a) by operation of OAC 1301:11-5-01 when she failed to correctly employ recognized methods and techniques that are necessary to produce a credible appraisal report; **6.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate the USPAP 2000 Standards

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Rules 1-1(c) by operation of OAC 1301:11-5-01 when she rendered appraisal services in a negligent and careless manner.

For violations 1, 2 & 4, Charlotte A. Berryman was ordered by the Appraiser Board to complete the 15 hour course in USPAP, including the passage of the course examination. For violation 3, Ms. Berryman is to complete a 7 hour course in manufactured housing. All courses shall be completed within six (6) months of the date of the Order, and the courses required by this order may not be used to satisfy continuing education requirements. The Superintendent may grant an extension upon good cause shown. For violations 5 & 6, Ms. Berryman, is **suspended** from the practice of appraising real estate in the State of Ohio for one (1) month effective September 11, 2006.

EILEEN MCDANIEL VOGEL, a State licensed residential real estate appraiser, from Hamilton, Ohio was found in violation of the following with respect to a real estate appraisal report: **1.** She violated ORC 4763.11(G)(5), 4763.11(G)(6), and/or 4763.11(G)(7) as those sections incorporate the USPAP 2003 Standards Rule 1-1(b), USPAP 2003 Standards Rule 1-1(c), and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she used as comparable sales, properties which were not similar to the Subject property, and she did not state her reasons for using comparable properties that were not similar to the Subject property or provide reasonable adjustments to the values of the properties being compared; **2.** She violated ORC 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(b) and USPAP 2003 Standards Rule 1-1(c) by operation of OAC 1301:11-5-01 when she failed to accurately state the site dimensions for Comparable Sale #1; **3.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-1(a), USPAP 2003 Standards Rule 1-4(b), and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she reported, without supporting the basis for the representation, an effective age for the subject property of 20 years despite the fact that the actual age of the subject property at the time of the appraisal was 82 years; **4.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-4 and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she failed to sufficiently support, in either her appraisal report or work file, the basis for assigning a \$40,000 value to the site of the subject property in the Cost Approach; **5.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate USPAP 2003 Standards Rule 1-4 and USPAP 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she failed to adequately or accurately support or to provide consistent or reasonable adjustments to the characteristics of the subject property and the comparable properties; **6.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and 4763.11(G)(7) as those sections incorporate the USPAP 2003 Standards Rule 1-1(c) by operation of OAC 1301:11-5-01 when she rendered appraisal services in a negligent and careless manner.

For violations 1 through 3, Eileen McDaniel Vogel was ordered by the Appraiser Board to pay a civil penalty of \$500.00. Payment of the \$500.00 in civil penalties shall be provided to the Superintendent within thirty (30) days of the date of the Order. For violation 4, Ms. Vogel is to complete 14 hours of additional education in a course related to the Cost Approach course as selected by Ms. Vogel and approved by the Superintendent. For violation 5, Ms. Vogel is to complete 7 hours of additional education in a course related to the Sales Comparison Approach as selected by Ms. Vogel and approved by the Superintendent. The courses shall be completed within six (6) months of the date of the Order. However, the Superintendent may grant an extension upon good cause shown. The courses required by this order may not be used to satisfy continuing education requirements. For violation 6, Eileen McDaniel Vogel is **suspended** from the practice of appraising real estate in the State of Ohio for five (5) days effective September 11, 2006.

DONNA M. CHAPMAN, a State licensed residential real estate appraiser, from Cardington, Ohio was found in violation of the following with respect to a real estate appraisal report: **1.** She violated ORC 4763.11(G)(5), 4763.11(G)(6), and/or 4763.11(G)(7) as those sections incorporate the USPAP 2003 Standards Rule 1-1(b), 2003 USPAP Standards Rule 1-1(c) and/or 2003 USPAP Standards Rule 1-5(b) by operation of OAC 1301:11-5-01 when she failed to report and analyze a sale of the subject property that occurred within three years prior of the effective date of the appraisal and the subject's prior sale was available in the normal course of business; **2.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate 2003 USPAP Standards Rule 1-1(c), 2003 USPAP Standards Rule 1-2 and/or 2003 USPAP Standards Rule 2-1 by operation OAC 1301:11-5-01 when she failed to indicate whether the subject's neighborhood was urban, suburban or rural; **3.** She violated ORC

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Appraiser Disciplinary Actions continued

4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate 2003 USPAP Standards Rule 1-1(c), 2003 USPAP Standards Rule 1-2 and/or 2003 USPAP Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she failed to indicate whether the subject's neighborhood was built up over 75%, or from 25% to 75% or under 25%; **4.** She violated ORC 4763.11(G)(5), 4763.11(G)(6), 4763.11(G)(7) and/or 4763.11(G)(8) as those sections incorporate 2003 USPAP Standards Rule 1-1(a), 2003 USPAP Standards Rule 1-1(b), 2003 Standards Rule 1-1(c), 2003 USPAP Standards Rule 1-2 and/or 2003 USPAP Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she indicated the subject neighborhood's sale price range is from \$160,000 to \$170,000 when the subject neighborhood's sale price range is otherwise pursuant to sources available to her in the normal course of business; **5.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate 2003 USPAP Standards Rule 1-1(c), 2003 USPAP Standards Rule 1-2 and/or 2003 USPAP Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she failed to indicate the composition of the subject's street and whether it was either public or private; **6.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate 2003 USPAP Standards Rule 1-1(c), 2003 USPAP Standards Rule 1-2 and/or 2003 USPAP Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she failed to indicate the composition of the subject's exterior walls; **7.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate 2003 USPAP Standards Rule 1-1(b), 2003 USPAP Standards Rule 1-1(c), and/or 2003 USPAP Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she indicated on page 1 of the appraisal report the subject has an enclosed patio and a concrete patio, but on page 2 of the appraisal report in the Sales Comparison Approach, she indicated the subject has a deck and a patio; **8.** She violated ORC 4763.11(G)(5), 4763.11(G)(6), 4763.11(G)(7) and/or 4763.11(G)(8) as those sections incorporate 2003 USPAP Standards Rule 1-1(a), 2003 USPAP Standards Rule 1-1(b), 2003 Standards Rule 1-1(c), 2003 USPAP Standards Rule 1-4(b) and/or 2003 USPAP Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she failed to accurately state in the Cost Approach the subject's estimated reproduction costs new of the improvements from her named source, the Marshall & Swift Residential Cost Handbook; **9.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate 2003 USPAP Standards Rule 1-1(a), 2003 USPAP Standards Rule 1-4(b) and/or 2003 Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she reported, without stating the basis for the representation, an effective age for the Subject property of 15 years despite the fact that the actual age of the Subject property at the time of the appraisal was 33 years; **10.** She violated ORC 4763.11(G)(5), 4763.11(G)(6), 4763.11(G)(7) and/or 4763.11(G)(8) as those sections incorporate 2003 USPAP Standards Rule 1-1(a), 2003 USPAP Standards Rule 1-1(b), 2003 Standards Rule 1-1(c), 2003 USPAP Standards Rule 1-4(b), and/or 2003 USPAP Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she failed to include in the Cost Approach the subject's enclosed porch, patio, fireplace and site improvements and she failed to include in the appraisal report sufficient explanation as to omission of these items from the Cost Approach; **11.** She violated ORC 4763.12(C) when she failed to provide with her appraisal report the State appraiser disclosure statement required under Ohio Law; **12.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate 2003 USPAP Standards Rule 1-1(c), 2003 USPAP Standards Rule 1-6 and/or 2003 USPAP Standards Rule 2-1 by operation of OAC 1301:11-5-01 when she failed to correctly reconcile the applicability or suitability of Cost Approach with the Sales Comparison Approach when arriving at the subject's value conclusion; **13.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate 2003 USPAP Standards Rule 1-1(b) by operation of OAC 1301:11-5-01 when she committed substantial error(s) of omission or commission that significantly affected the appraisal report of the Subject property; **14.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate 2003 USPAP Standards Rule 1-1(c) by operation of OAC 1301:11-5-01 when she rendered appraisal services in a careless or negligent manner that affected the credibility of the appraisal report of the Subject property; **15.** She violated ORC 4763.11(G)(4), 4763.11(G)(5), 4763.11(G)(6), 4763.11(G)(7) and/or 4763.11(G)(8) as those sections incorporate 2003 USPAP Standards Rule 2-1 and/or the Conduct Provision of the 2003 Ethics Rule by operation of OAC 1301:11-5-01 when she completed an appraisal report that was misleading; **16.** She violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate 2003 USPAP Standards Rule 1-1(a) and 2003 USPAP Standards Rule 1-2(f) by operation of OAC 1301:11-5-01 when she failed to provide adequate information and sound reasoning to support the opinions expressed in the appraisal report and she limited her research and analysis to such a degree that the resulting opinions and conclusions developed in the appraisal were not credible in the context of the intended use of the appraisal.

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Appraiser Disciplinary Actions continued

For violations 2 through 6, Donna M. Chapman was ordered by the Appraiser Board to pay a civil penalty of \$100.00 for each charge. For violation 7, Ms. Chapman was ordered to pay a civil penalty of \$250.00. For violations 8, 9, & 10, Ms. Chapman was ordered to pay a civil penalty of \$200.00. For violation 11, Ms. Chapman was ordered to pay a civil penalty of \$200.00. For the violation in 12, Donna M. Chapman is ordered to pay a civil penalty of \$100.00. For violation 13, Ms. Chapman was ordered to pay a civil penalty of \$500.00. For violation 14, Ms. Chapman was ordered to pay a civil penalty of \$500.00. For violations 15 & 16, Ms. Chapman is ordered to pay a civil penalty of \$750.00. Payment of the \$3,000.00 dollars in civil penalties shall be provided to the Superintendent within thirty (30) days of the date of the Order. For violations 15 & 16, Donna M. Chapman was **suspended** from the practice of appraising real estate in the State of Ohio for one (1) year effective September 11, 2006. For violation 1, Ms. Chapman was ordered to complete 15 hours of additional education in a USPAP course including the passage of the course examination. For violations 8, 9, & 10, Ms. Chapman was ordered to complete 7 hours of additional education in a course related to the Cost Approach. For violation 13, Ms. Chapman was ordered to complete a basic principles course, including the passage of the course examination. For violation 14, Donna M. Chapman was ordered to complete a basic appraisal procedures course, including the passage of the course examination.

VAL E. FRANCIS, a State certified general real estate appraiser from Waverly, Ohio was found in violation of the following with respect to a real estate appraisal report: **1.** He violated ORC 4763.11(G)(5) and/or 4763.11(G)(6) as those sections incorporate the Competency Rule in the Supplemental Standards Rule for 2004 USPAP by operation of OAC 1301:11-5-01 when in the development of an appraisal report for the Subject property, he represented that an appraisal report considered and addressed all Minimum Property Requirements established by the Department of Veteran Affairs for Real Estate Appraisal Reports when in fact the appraisal report did not consider and address all Minimum Property Requirements when he failed to recognize and summarize in the appraisal report the crawl space for the Subject property was not properly vented; **2.** He violated ORC 4763.11(G)(5), 4763.11(G)(6) and/or 4763.11(G)(7) as those sections incorporate 2004 USPAP Standards Rule 1-4 and/or 2004 USPAP Standards Rule 2-1 by operation of OAC 1301:11-5-01 when he developed the Cost Approach for the Subject property, he failed to sufficiently support the basis for assigning a \$25,000 value to the site of the Subject property in the appraisal report and work file; **3.** He violated ORC 4763.11(G)(5) and/or 4763.11(G)(6) as those sections incorporate 2004 USPAP Standards Rule 1-1(c), 2004 USPAP Standards Rule 1-6, 2004 USPAP Standards Rule 2-1 and/or 2-2(b)(ix) by operation of OAC 1301:11-5-01 when in the development of the Reconciliation Section in the appraisal report for the Subject property, he stated “the Cost Approach sets the upper limit of value for the subject and lends support to the Sales Comparison Approach” when in fact the Cost Approach was not completed in the appraisal report for the Subject property.

For these violations Val E. Francis was ordered by the Appraiser Board to pay a civil penalty of \$500.00. Payment of the five hundred dollars in civil penalties shall be provided to the Superintendent within (30) days of the date of the Order.

Division Welcomes Its Newest Board and Commission Members

The Ohio Real Estate Appraiser Board welcomed its newest member, Raymond E. Houk, from Lynchburg, who was appointed by Governor Taft for a term ending June 30, 2009, replacing Lawrence Kell, whose term expired. Mr. Houk is a licensed residential appraiser, broker and auctioneer and is the founder of Ray Houk Realty, in Fayetteville.

Governor Taft also reappointed Margaret Hambleton for a second term expiring June 30, 2009. Ms. Hambleton is the President of Hambleton Inc. In addition, Ms. Hambleton was voted Chairperson of the Appraiser Board at its July, 2006 meeting.

The Ohio Real Estate Commission welcomed its newest member, Rosetta Hayes-Borders, from Reynoldsburg, who was appointed by Governor Taft for a term ending June 30, 2011, replacing Cheryl Churchill, whose term expired. Ms. Hayes is the owner of RE/MAX Tri-County and is a member of the National Association of Realtors, the Ohio Association of Realtors, and the Columbus Board of Realtors, and has served on the Columbus Realtist Association Board of Directors since 2003.

How Are We Doing?

The Division of Real Estate and Professional Licensing is interested in receiving feedback from our licensees and others who have contact with the Division on the quality of service we are providing to our customers.

Your feedback will assist us in recognizing our strengths and identifying areas needing improvement. This survey process is in no way intended to replace or diminish personal contact with the Division. Rather, it is to solicit more feedback on a periodic basis. Please visit our website at www.com.state.oh/us/real to complete the survey.



The Ohio Department of Commerce

State of Ohio
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Division of Real Estate and Professional Licensing
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Commission Members

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David C. Paul

Appraiser Board Members

Brian W. Barnes
Lytle T. Davis
Margaret A. Hambleton
Raymond E. Houk
Michael Koren

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